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**P & N Drywall, Inc. and South Jersey Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO.**  
Case 4-CA-26780

January 15, 1999

**DECISION AND ORDER**

BY MEMBERS FOX, LIEBMAN, AND HURTGEN

Upon a charge filed by the Union on January 12, 1998, the Acting General Counsel of the National Labor Relations Board issued a complaint on July 24, 1998, against P & N Drywall, Inc., the Respondent, alleging that it has violated Section 8(a)(1) and (5) of the National Labor Relations Act. Although properly served copies of the charge and complaint, the Respondent failed to file an answer.

On December 21, 1998, the General Counsel filed a Motion for Summary Judgment with the Board. On December 22, 1998, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed no response. The allegations in the motion are therefore undisputed.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

**Ruling on Motion for Summary Judgment**

Sections 102.20 and 102.21 of the Board's Rules and Regulations provide that the allegations in the complaint shall be deemed admitted if an answer is not filed within 14 days from service of the complaint, unless good cause is shown. In addition, the complaint affirmatively notes that unless an answer is filed within 14 days of service, all the allegations in the complaint will be considered admitted. Further, the undisputed allegations in the Motion for Summary Judgment disclose that the Region, by letter dated December 3, 1998, notified the Respondent that unless an answer were received by December 10, 1998, a Motion for Summary Judgment would be filed.

In the absence of good cause being shown for the failure to file a timely answer, we grant the General Counsel's Motion for Summary Judgment.

On the entire record, the Board makes the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At all material times, the Respondent, a New Jersey corporation, with an office at 109 Huntington Drive, Hammononton, New Jersey, has been engaged as a drywall installation contractor in the construction industry. During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its business

operations described above, provided services valued in excess of \$50,000 outside the State of New Jersey. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

**II. ALLEGED UNFAIR LABOR PRACTICES**

The following employees of the Respondent (the unit) constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All Journeymen Carpenters, Millwrights and Lathers and all of their apprentices, trainees and foremen employed by Respondent on construction projects within the trade-line jurisdiction of the Union, excluding guards and Supervisors as defined in the Act. The trade-line jurisdiction of the Union encompasses work performed in the following counties located in the State of New Jersey; Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem.

At all material times, the Respondent, an employer engaged in the construction industry as described above, has been a party to the collective-bargaining agreement (the Agreement) between the Building Contractors Association of New Jersey and the Union, effective by its terms from May 1, 1997, through April 30, 2000. Pursuant to the Agreement, the Respondent has recognized the Union as the exclusive collective-bargaining representative of the unit without regard to whether the majority status of the Union has ever been established under the provisions of Section 9(a) of the Act.

At all material times since at least May 1, 1997, the Union has been the limited exclusive collective-bargaining representative of the unit.

On about October 15, 1997, the Union, by letter addressed to the Respondent's president, Joseph Nunes (a copy of this request was attached to the complaint as Exh. A), requested that the Respondent furnish the Union with 79 items of information concerning the Respondent's affiliation with, and relation to, an entity known as Pat's Drywall.

The information requested by the Union, described above, is necessary for, and relevant to, the Union's performance of its duties as the limited exclusive collective-bargaining agent of the unit.

Since about October 15, 1997, the Respondent has failed and refused to furnish the Union with the information requested by it as described above.

**CONCLUSION OF LAW**

By the acts and conduct described above, the Respondent has been failing and refusing to bargain collectively with the limited exclusive collective-bargaining representative of its employees, and has thereby engaged in

unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

#### REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent has failed and refused to furnish the requested information to the Union which is necessary for and relevant to the performance of its duties as the limited exclusive collective-bargaining representative of the unit employees, we shall order the Respondent to furnish the information requested to the Union.

#### ORDER

The National Labor Relations Board orders that the Respondent, P & N Drywall, Inc., Hammonton, New Jersey, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Failing and refusing to furnish South Jersey Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, with the requested information that is relevant to and necessary for the performance of its duties as the limited exclusive collective-bargaining representative of the employees in the following unit:

All Journeymen Carpenters, Millwrights and Lathers and all of their apprentices, trainees and foremen employed by Respondent on construction projects within the trade-line jurisdiction of the Union, excluding guards and Supervisors as defined in the Act. The trade-line jurisdiction of the Union encompasses work performed in the following counties located in the State of New Jersey; Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Furnish the Union the information it requested on October 15, 1997, which is relevant to and necessary for its role as the limited exclusive collective-bargaining representative of the unit.

(b) Within 14 days after service by the Region, post at its facility in Hammonton, New Jersey, copies of the attached notice marked "Appendix."<sup>1</sup> Copies of the no-

tice, on forms provided by the Regional Director for Region 4, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 15, 1997.

(c) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. January 15, 1999

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Sarah M. Fox,	Member
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Wilma B. Liebman,	Member
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Peter J. Hurtgen,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT fail and refuse to furnish South Jersey Regional Council of Carpenters, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, with the requested information that is relevant to and necessary for the performance of its duties as the limited exclusive collective bargaining representative of the employees in the following unit:

All Journeymen Carpenters, Millwrights and Lathers and all of their apprentices, trainees and foremen employed by us on construction projects within the trade-

<sup>1</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

line jurisdiction of the Union, excluding guards and Supervisors as defined in the Act. The trade-line jurisdiction of the Union encompasses work performed in the following counties located in the State of New Jersey; Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL furnish the Union the information it requested on October 15, 1997, which is relevant to and necessary for its role as the limited exclusive collective-bargaining representative of the unit.

P & N DRYWALL, INC.